



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2015-0427; FRL-9934-68-Region 7]

**Approval and Promulgation of State Plans for Designated
Facilities and Pollutants; Missouri; Control of Mercury
Emissions from Electric Generating Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Missouri State Plan received May 7, 2013. This revision rescinds the state rule and associated state plan controlling mercury emissions from electric generating units. This rule is being rescinded because the Federal Clean Air Mercury Rule, which is the basis for this rule and associated plan, has been vacated and removed from the Code of Federal Regulations. This action will make Missouri's State Plan consistent with Federal regulations.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], without further notice, unless EPA receives adverse comment by [INSERT

DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2015-0427, by one of the following methods:

1. www.regulations.gov. Follow the on-line instructions for submitting comments.
2. Email: Bhesania.amy@epa.gov
3. Mail or Hand Delivery: Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2015-0427. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or email information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal holidays. The interested persons

wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7147, or by email at bhesania.amy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a Section 111(d) Plan Revision Been Met?
- III. What Action is EPA taking?

I. What is Being Addressed in this Document?

EPA is taking direct final action to approve a revision to the Missouri State Plan received May 7, 2013. This revision rescinds Missouri state rule 10 CSR 10-6.368, *Control of Mercury Emissions from Electric Generating Units*, and associated state plan. The state rule and plan was originally incorporated into the Missouri State Plan on January 7, 2008, (73 FR 3194) following the March 15, 2005, promulgation of the Federal Clean Air Mercury Rule (CAMR) which permanently capped and reduced mercury emissions from coal-fired power plants through a regional mercury trading program (70 FR 28606). On February 8, 2008, the D.C. Circuit Court vacated EPA's rule removing power

plants from the Clean Air Act (CAA) list of sources of hazardous air pollutants, and at the same time, the Court vacated the Clean Air Mercury Rule. New Jersey v. EPA, 517 F.3d 574 (D.C. Cir 2008). On February 16, 2012, EPA replaced CAMR with the Mercury and Air Toxics Standards (MATS rule) (77 FR 9304). Missouri has accepted delegation of this standard (80 FR 10596). Therefore, this rule and associated plan is being rescinded and removed from the Missouri State Plan to make the plan consistent with Federal regulations.

II. Have the Requirements for Approval of a Section 111(d) Plan Revision Been Met?

The Missouri Air Conservation Commission adopted the rescission of 10 CSR 10-6.368 on February 5, 2013. No comments were received on this state action. The Missouri Air Conservation Commission has full legal authority to develop rules pursuant to section 643.050 of the Missouri Air Conservation Law. The State followed all applicable administrative procedures in proposing and adopting the rule actions. After publication by the Missouri Secretary of State in the Code of State Regulations, the rescission of the rule became effective May 30, 2013. The State of Missouri submitted the rule and rescission to us for approval pursuant to section 111(d). We

have evaluated the state plan rescission against criteria in 40 CFR part 60, subpart B "Adoption and Submittal of State Plans for Designated Facilities." The state plan rescission meets all of the applicable requirements.

III. What Action is EPA Taking?

EPA is taking direct final action to approve a revision to the Missouri State Plan to rescind Missouri state rule 10 CSR 10-6.368, *Control of Mercury Emissions from Electric Generating Units*, and associated state plan.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the State Plan revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all

public comments in any subsequent final rule based on the proposed rule.

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and

will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this direct final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 14, 2015. Mark Hague,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 62 as set forth below:

**PART 62 - APPROVAL AND PROMULGATION OF STATE PLANS FOR
DESIGNATED FACILITIES AND POLLUTANTS**

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. *et seq.*

Subpart AA - Missouri

§62.6362 [Removed]

2. Section 62.6362 is removed and reserved.

[FR Doc. 2015-24339 Filed: 9/24/2015 08:45 am; Publication Date: 9/25/2015]